ATTORNEY FOR APPELLANT:

JOHN ANDREW GOODRIDGE
Evansville, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

IAN McLEAN
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

TIMOTHY EDWARD HUFFMAN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 82A05-0711-CR-645
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE VANDERBURGH CIRCUIT COURT
The Honorable Carl A. Heldt, Judge
The Honorable David O. Kiely, Magistrate
Cause No. 82C01-0610-FA-1079

May 7, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Timothy Edward Huffman appeals the aggregate executed fifteen-year sentence imposed by the trial court after he pleaded guilty to Dealing in Methamphetamine,[1] a class B felony, and Possession of Methamphetamine,[2] a class D felony. Huffman argues that the sentence is inappropriate in light of the nature of the offenses and his character. We affirm.

FACTS

On October 4, 2006, Huffman was manufacturing methamphetamine and also possessed the completed product. On October 9, 2006, the State charged Huffman with various drug-related offenses. On August 15, 2007, Huffman pleaded guilty to class B felony dealing in methamphetamine and class D felony possession of methamphetamine. At the October 8, 2007, sentencing hearing, the trial court found Huffman's prior criminal history to be an aggravator and the fact that he pleaded guilty to be a mitigator. The trial court sentenced Huffman to fifteen years for dealing and two years for possession, to be fully executed and served concurrently. Huffman now appeals.

DISCUSSION AND DECISION

Huffman argues that the sentence imposed by the trial court is inappropriate in light of the nature of the offenses and his character. Initially, we note that Huffman has failed to include the presentence investigation report (PSI) in his appendix. Inasmuch as

[1] Ind. Code § 35-48-4-1.1.

[2] I.C. § 35-48-4-6.1.

his argument relies on information contained in the PSI and the trial court's analysis thereof, his failure to include the document in the record on appeal hampers our ability to consider Huffman's argument and review the trial court's sentencing decision. See Nasser v. State, 727 N.E.2d 1105, 1110 (Ind. Ct. App. 2000) (finding that defendant had waived a sentencing argument because he had failed to include the PSI in the record); but see Ind. Appellate Rule 49(B) (providing that "[a]ny party's failure to include any item in an Appendix shall not waive any issue or argument").

Turning to the merits of Huffman's argument that his sentence is inappropriate pursuant to Indiana Appellate Rule 7(B), we observe that in reviewing a Rule 7(B) appropriateness challenge, we defer to the trial court. Stewart v. State, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). The burden is on the defendant to persuade us that his sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Huffman challenges the enhanced fifteen-year sentence imposed for his class B felony conviction[3] and the enhanced two-year sentence imposed for his class D felony conviction.[4]

As for the nature of Huffman's offense, he was manufacturing methamphetamine in his residence, which was located in a mobile home park in Vanderburgh County. Given the volatile and dangerous nature of methamphetamine production, the fact that

---

[3] See Ind. Code § 35-50-2-5 (providing that "[a] person who commits a class B felony shall be imprisoned for a fixed term of between six (6) and twenty (20) years, with the advisory sentence being ten (10) years").

[4] See I.C. § 35-50-2-7(a) (providing that "[a] person who commits a class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years").

Huffman was engaging in this criminal activity in a residential neighborhood does not aid his inappropriateness argument.

As for Huffman's character, the trial court observed that Huffman's prior criminal history included convictions for class C felony battery, class D felony theft, unspecified felony possession of a schedule II controlled substance, and unspecified felony forgery. Id. The trial court further observed that Huffman was buying methamphetamine while on bond. Id. Additionally, when he was being sentenced in this case, Huffman was also being sentenced in another felony case for unlawful possession of a handgun by a serious violent felon. Id. at 46.

Huffman's only particular claim of error is that the trial court should have found the fact that he became involved in the drug world when he was young to be a mitigator. There is no evidence supporting this assertion in the record before us. Furthermore, given Huffman's lengthy and significant criminal history, the trial court was well within its discretion to conclude that Huffman's early involvement in the drug world was not a simple case of a youth getting pulled into the world of drugs and becoming addicted. Instead, the evidence in the record supports a conclusion that Huffman has become a violent drug manufacturer who is dangerous to society. His past contacts with the judicial system have not deterred him from criminal activity and his actions evince a disregard for the rule of law and his fellow citizens. Thus, the aggregate executed fifteen-year sentence imposed by the trial court was not inappropriate in light of the nature of the offenses and Huffman's character.

The judgment of the trial court is affirmed.

RILEY, J., and ROBB, J., concur.